

AMENDED IN SENATE MAY 5, 2015
AMENDED IN SENATE APRIL 15, 2015
AMENDED IN SENATE MARCH 24, 2015

SENATE BILL

No. 9

Introduced by Senator Beall

December 1, 2014

An act to amend Sections 75220, 75221, and 75222 of, and to add Sections 75223, 75224, and 75225 to, the Public Resources Code, relating to transportation, *and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 9, as amended, Beall. Greenhouse Gas Reduction Fund: Transit and Intercity Rail Capital Program.

Existing law requires all moneys, except for fines and penalties, collected by the State Air Resources Board from the auction or sale of allowances as part of a market-based compliance mechanism relative to reduction of greenhouse gas emissions to be deposited in the Greenhouse Gas Reduction Fund.

Existing law provides various sources of funding for transportation programs, including capital and operating funds for rail services, including intercity, commuter, and urban rail systems, including the Transit and Intercity Rail Capital Program which receives 10% of the annual proceeds of the Greenhouse Gas Reduction Fund as a continuous appropriation. Existing law provides that the purpose of the program is to fund capital improvements and operational investments to modernize California's rail systems to achieve certain policy objectives, including the reduction of greenhouse gas emissions, the expansion and integration of rail services to increase ridership, and to improve rail

safety. Existing law requires the Transportation Agency to evaluate applications for funding under the program and to prepare a list of projects recommended for funding, with grants to be awarded by the California Transportation Commission.

This bill would modify the purpose of the program to delete references to operational investments and instead provide for the funding of large, transformative capital improvements that will modernize California's intercity, commuter, and urban rail systems and bus *and ferry* transit systems to achieve certain policy objectives, including reducing emissions of greenhouse gases, the expansion of transit services to increase ridership, and to improve transit safety. *By expanding the purposes for which continuously appropriated funds may be used, the bill would make an appropriation.* The bill would ~~instead require that~~ the Transportation Agency *to* adopt a multiyear program of projects for funding, and require the California Transportation Commission to allocate funding to applicants pursuant to the program of projects. The bill would require that 90% of available funds be programmed and allocated to projects with a total cost of \$100,000,000 or more, and 10% to projects with a total cost of less than \$100,000,000. The bill would require the Transportation Agency, in selecting projects for funding, to consider the extent to which a project reduces greenhouse gas emissions, would add additional factors to be considered in evaluating applications for funding, and would expand certain factors considered to include bus *and ferry* transit service. The bill would require the Transportation Agency to develop, by July 1, 2016, a 5-year estimate of revenues reasonably expected to be available for the program, with subsequent estimates to be made every other year for additional 5-year periods, and would require the agency to adopt 5-year programs of projects consistent with those estimates. The bill would authorize the Transportation Agency, in cooperation with the California Transportation Commission, to make a multiyear funding commitment for a project proposed to be funded over more than one fiscal year, and would authorize the California Transportation Commission to approve a letter of no prejudice that would allow an applicant to expend its own funds on a project in the adopted program of projects, subject to future reimbursement from program funds for eligible expenditures.

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 75220 of the Public Resources Code is amended to read:

75220. (a) The Transit and Intercity Rail Capital Program is hereby created to fund large, transformative capital improvements that will modernize California's intercity, commuter, and urban rail systems and bus *and ferry* transit systems to achieve all of the following policy objectives:

- (1) Reduce emissions of greenhouse gases.
- (2) Expand and improve transit service to increase ridership.
- (3) Integrate the rail service of the state's various rail operators, including integration with the high-speed rail system.
- (4) Improve transit safety.

(b) The Transportation Agency shall evaluate applications consistent with the criteria set forth in this chapter and adopt a multiyear program of projects for funding pursuant to Section 75224, that may be revised at any time.

(c) The California Transportation Commission shall allocate funding to applicants pursuant to the program of projects adopted by the Transportation Agency.

(d) Ninety percent of available funds shall be programmed and allocated to projects with a total cost of one hundred million dollars (\$100,000,000) or more, and 10 percent to projects with a total cost of less than one hundred million dollars (\$100,000,000).

SEC. 2. Section 75221 of the Public Resources Code is amended to read:

75221. (a) Projects eligible for funding under the program include, but are not limited to, all of the following:

(1) Rail capital projects, including acquisition of rail cars and locomotives, that expand, enhance, and improve existing rail systems and connectivity to existing and future transit systems, including the high-speed rail system.

(2) Intercity and commuter rail projects that increase service levels, improve reliability, and decrease travel times.

(3) Rail integration implementation, including integrated ticketing and scheduling systems, shared-use corridors, related planning efforts, and other service integration initiatives.

(4) Bus rapid transit and other bus *and ferry* transit investments to increase ridership and reduce greenhouse gas emissions.

1 (b) In order to be eligible for funding under the program, a
2 project shall demonstrate that it will achieve a reduction in
3 emissions of greenhouse gases. In selecting projects for funding,
4 the Transportation Agency shall consider the extent to which a
5 project reduces emissions of greenhouse gases.

6 (c) The program shall have a programmatic goal of providing
7 at least 25 percent of available funding to projects benefiting
8 disadvantaged communities, consistent with the objectives of
9 Chapter 830 of the Statutes of 2012.

10 (d) In evaluating grant applications for funding, the
11 Transportation Agency shall consider all of the following:

12 (1) The cobenefits of projects that support implementation of
13 sustainable communities strategies through one or more of the
14 following:

15 (A) Reducing auto vehicles miles traveled and the number of
16 auto trips through growth in transit ridership.

17 (B) Promoting housing development in the vicinity of rail
18 stations.

19 (C) Expanding existing rail and public transit systems.

20 (D) Enhancing the connectivity, integration, and coordination
21 of the state's various regional and local transit systems.

22 (E) Providing a direct connection to the high-speed rail system.

23 (F) Implementing clean vehicle technology.

24 (G) Promoting active transportation.

25 (H) Improving public health.

26 (2) The project priorities developed through the collaboration
27 of two or more rail operators and any memoranda of understanding
28 between state agencies and local or regional rail operators.

29 (3) Geographic equity.

30 (4) Consistency with an adopted sustainable communities
31 strategy or, if a sustainable strategy is not required for a region by
32 law, a regional plan that includes policies and programs to reduce
33 emissions of greenhouse gases.

34 (5) The extent to which a project has supplemental funding
35 committed to it from other nonstate sources.

36 (6) The extent to which the project will increase transit ridership.

37 (e) Eligible applicants under the program shall be public
38 agencies, including joint powers agencies, that operate existing or
39 planned regularly scheduled intercity or commuter passenger rail
40 service, urban rail transit service, or bus *or* ferry transit service.

1 ~~An eligible applicant may partner with transit operators that do~~
2 ~~not operate rail service on projects to integrate ticketing and~~
3 ~~scheduling with bus or ferry service.~~

4 (f) A recipient of funds under the program may combine funding
5 from the program with other state funding, including, but not
6 limited to, the State Transportation Improvement Program, the
7 Low Carbon Transit Operations Program, the State Air Resources
8 Board clean vehicle program, and state transportation bond funds.

9 SEC. 3. Section 75222 of the Public Resources Code is
10 amended to read:

11 75222. (a) Applications for grants under the program shall be
12 submitted to the Transportation Agency for evaluation in
13 accordance with procedures and program guidelines adopted by
14 the agency. An eligible applicant may submit an application to the
15 agency to fund a project over multiple fiscal years. The agency
16 may make multiyear funding commitments for projects that are
17 proposed to be funded from the program over a period of more
18 than one fiscal year.

19 (b) The application shall define the project purpose, intended
20 scope, proposed cost, intended funding sources, and schedule for
21 project completion.

22 (c) The application shall specify the phases of work for which
23 an eligible applicant is seeking an allocation of funds from the
24 program, as appropriate:

25 (1) Studies, environmental review, and permits.

26 (2) Preparation of project plans and specifications.

27 (3) Right-of-way acquisition.

28 (4) Construction or procurement.

29 (d) The application shall identify the sources and timing of all
30 funds required to undertake and complete any phase of a project
31 for which an eligible applicant is seeking an allocation of funds
32 from the program. The application shall also describe intended
33 sources and timing of funds to complete any subsequent phases
34 of the project, through construction or procurement.

35 (e) The application shall include information describing the
36 funding sources and approach to ensuring ongoing operating and
37 maintenance costs of the project are funded through the useful life
38 of the project, as applicable.

39 SEC. 4. Section 75223 is added to the Public Resources Code,
40 to read:

1 75223. (a) The Transportation Agency shall conduct at least
2 two public workshops on draft program guidelines containing
3 selection criteria prior to adoption and shall post the draft
4 guidelines on the agency's Internet Web site at least 30 days prior
5 to the first public workshop. Concurrent with the posting, the
6 agency shall transmit the draft guidelines to the fiscal committees
7 and the appropriate policy committees of the Legislature.

8 (b) Chapter 3.5 (commencing with Section 11340) of Part 1 of
9 Division 3 of Title 2 of the Government Code does not apply to
10 the development and adoption of procedures and program
11 guidelines for the program pursuant to this section.

12 SEC. 5. Section 75224 is added to the Public Resources Code,
13 to read:

14 75224. (a) No later than July 1, 2016, the Transportation
15 Agency shall develop a five-year estimate of revenues, in annual
16 increments, reasonably expected to be available to the program
17 from the Greenhouse Gas Reduction Fund, and adopt a program
18 of projects, which shall cover a period of five fiscal years,
19 beginning with fiscal year 2016–17.

20 (b) The Transportation Agency shall adopt each subsequent
21 program of projects not later than April 1 of each even-numbered
22 year based on a five-year estimate of revenues, in annual
23 increments. Each subsequent program shall cover a period of five
24 fiscal years, beginning July 1 of the year of adoption, and shall be
25 a statement of intent by the Transportation Agency for the
26 allocation and expenditure of funds during those five fiscal years.

27 (c) In cooperation with the commission, the Transportation
28 Agency may enter into and execute a multiyear funding agreement
29 with an eligible applicant for a project that is proposed to be funded
30 from the program over a period of more than one fiscal year. The
31 agreement shall include a proposed schedule of the amount of
32 funds expected to be provided to the eligible applicant for each
33 fiscal year of the agreement and may be for a period that extends
34 beyond the five fiscal years covered by the program of projects.

35 SEC. 6. Section 75225 is added to the Public Resources Code,
36 to read:

37 75225. (a) A lead applicant agency may apply to the
38 commission for a letter of no prejudice for a project or for any
39 component of a project included in the five-year program of
40 projects adopted by the Transportation Agency. If approved by

1 the commission, the letter of no prejudice shall allow the lead
2 applicant agency to expend its own funds for the project or any
3 component of the project and to be eligible for future
4 reimbursement from funds available for the program from the
5 Greenhouse Gas Reduction Fund.

6 (b) The amount expended under subdivision (a) shall be
7 reimbursed by the state from funds available for the program from
8 the Greenhouse Gas Reduction Fund if all of the following
9 conditions are met:

10 (1) The project or project component for which the letter of no
11 prejudice was requested has commenced, and the regional or local
12 expenditures have been incurred.

13 (2) The expenditures made by the lead applicant agency are
14 eligible for reimbursement in accordance with applicable laws and
15 procedures. In the event expenditures made by the lead applicant
16 agency are determined to be ineligible, the state has no obligation
17 to reimburse those expenditures.

18 (3) The lead applicant agency complies with all legal
19 requirements for the project, including the requirements of the
20 California Environmental Quality Act (Division 13 (commencing
21 with Section 21000)).

22 (4) There are funds in the Greenhouse Gas Reduction Fund
23 designated for the program that are sufficient to make the
24 reimbursement payment.

25 (c) The lead applicant agency and the commission shall enter
26 into an agreement governing reimbursement as described in this
27 section. The timing and final amount of reimbursement is
28 dependent on the terms of the agreement and the availability of
29 funds in the Greenhouse Gas Reduction Fund for the program.

30 (d) The commission, in consultation with intercity, commuter,
31 urban rail, and other public transit entities, may develop guidelines
32 to implement this section.